The repeal of a statute does not affect rights which have become vested under it. *Steamship Co.* v. *Joliffe*, 2 Wall. (U. S.) 450. But all inchoate interests are extinguished. *Hampton* v. *Commonwealth*, 19 Pa. St. 329. There is no vested right in a particular remedy. *Lord* v. *Chadbourne*, 42 Me. 429. And the repeal of a statute creating a crime terminates all proceedings under it not prosecuted to final judgment. *Commonwealth* v. *Marshall*, 28 Mass. 350. But a common law cause of action is a vested right. *Dorsey* v. *Kyle*, 30 Md. 512. And where a statute imposes a duty a violation of which constitutes negligence, a subsequent repeal does not remove liability previously incurred. *Gorman* v. *McArdle*, 67 Hun (N. Y.) 484. Rights attached by statute to a contract relation are unaffected by a subsequent repeal of the statute. *McCann* v. *City of New York*, 52 N. Y. App. Div. 358. But the weight of authority supports the principal case in laying down the general rule that a right of action created by statute is not a vested right. *Vance* v. *Rankin*, 194 Ill. 625; *Globe Publishing Company* v. *State Bank of Nebraska*, 41 Neb. 175. It is submitted that these decisions are based on a confusion between the remedy and the right and are unsupportable on principle. If the legislature has given a remedy, it has at the same time created a right; and this right vests independently of suit or judgment. *Hunt* v. *Gulick*, 9 N. J. L. 205.

CORPORATIONS — PROMOTERS — EFFECT OF CORPORATION'S ASSENT TO FRAUDULENT SALE. — The promoters of a corporation sold to it a patent at an enormous profit. All the existing stockholders assented with knowledge of the fraud. Subsequently the plaintiffs bought stock at par from the treasury. A bill in equity was brought joining the promoters and the corporation and praying for the surrender of the stock issued to the promoters in excess of the value of the patent. *Held*, that the plaintiffs are entitled to the relief sought. *Mason* v. *Carrothers*, 74 Atl. 1030 (Me.).

If a promoter in selling to a corporation fails to provide an independent board of directors and disclose all material facts, he is liable in equity for all secret unfair profits. *Erlanger* v. *New Sombrero Phosphate Co.*, 3 A. C. 1218. But if all the shareholders assent to the sale with knowledge of the fraud, obviously the corporation cannot recover. If innocent parties have subsequently bought shares, some courts have allowed the corporation to recover in spite of its previous assent, except in cases where the subsequent issue of stock was not directly from the treasury or was not part of the original scheme of the promoters. *Old Dominion, etc. Co.* v. *Bigelow*, 188 Mass. 315, 203 Mass. 159. *Re British Seamless Paper Box Co.*, 17 Ch. D. 467. See 22 HARV. L. REV. 48. This remedy seems unjustifiably to disregard the corporate fiction, for it benefits the guilty as well as the innocent shareholders. *Old Dominion, etc. Co.* v. *Lewisohn*, 210 U. S. 206. Moreover, the exception, based on the compass of the original scheme and the issuance of the stock from the treasury, seems artificial, for there is injury and guilt equally in both cases. The principal case also seems wrong in allowing subsequent stockholders to sue, for the stockholders' rights are derivative from the corporation which is joined in the bill as a defendant, just as a recusant trustee may be joined as defendant to work out the *cestui's* rights against a third party. See *Russell* v. *Wakefield Waterworks Co.*, L. R. 20 Eq. 474. It is submitted that the plaintiff's proper remedy is an action at law against the promoters for deceit, on the ground of an implied representation that approximately full value had been paid to the company for the stocks previously issued. See *Coles* v. *Kennedy*, 81 Ia. 360.

CORPORATIONS — STOCKHOLDERS: INDIVIDUAL LIABILITY TO CORPORATION AND CREDITORS — EFFECT OF TRANSFERS MADE TO ESCAPE LIABILITY. — An owner of shares not fully paid up, hearing that the company was in financial difficulties, for the purpose of avoiding liability made an absolute transfer of the shares to a man of straw, not assuming any obligation to indemnify the trans-

feree. Suit was brought by the liquidator of the company to have the transfer set aside. *Held*, that the transfer is valid. *In re Discoverers' Finance Corporation, Lindlar's Case*, 45 L. J. 122 (Eng., Ct. App., Feb. 12, 1910).

This decision is undoubted law in England. Provided the transfer is absolute, it is of no consequence that it is to one known to be a man of straw, for the express purpose of ridding the transferor of his liability. *De Pass's Case*, 4 De G. & J. 544. The retention of any interest, however, makes the transfer invalid. *Budd's Case*, 3 De G. F. & J. 297. And the transferor must contribute, if the transaction is wholly colorable, leaving him under obligations to the transferee. *In re Discoverers' Finance Corporation*, [1908] 1 Ch. 141. In the United States, however, the law is quite the reverse. *Nathan* v. *Whitlock*, 9 Paige (N. Y.) 152. A shareholder cannot avoid liability by conveying to a man of straw. The cases emphasize the necessity of an intent to avoid liability, considering it as analogous to an intent to defraud. See *Moore* v. *Boyd*, 74 Cal. 167, 174. Such an intent is usually inferred from the known insolvency of the corporation or of the transferee. *Bowden* v. *Johnson*, 107 U. S. 251. Yet after an honest sale with no intent to defeat creditors, the mere fact of the purchaser's insolvency is not enough to make the seller liable as a contributory. *Miller* v. *Great Republic Insurance Co.*, 50 Mo. 55. It is submitted that the American doctrine is necessary to afford adequate protection and to do full justice to honest shareholders and creditors.

CORPORATIONS — STOCKHOLDERS: RIGHTS INCIDENT TO MEMBERSHIP — RIGHT TO CONTROL DIRECTORS BY A PARTNERSHIP AGREEMENT. — Two individuals bought all the shares in a foreign corporation, under an agreement that the business should be carried on under their joint direction, and that the necessary directors should act only under such direction. A dispute having arisen, one of them seeks to enjoin the directors from following their independent judgment. *Held*, that the injunction be refused. *Jackson* v. *Hooper*, 42 N. Y. L. J. 2381 (N. J., Ct. Ch., Feb. 28, 1910). See NOTES, p. 551.

CORPORATIONS — ULTRA VIRES CONTRACTS: RIGHTS AND LIABILITIES OF PARTIES — AUTHORIZATION OF PARTICULAR ACT DEPENDING ON FACTS PECULIARLY WITHIN CORPORATE AGENT'S KNOWLEDGE. — The defendant corporation issued a promissory note for the purchase of stock in another corporation. The plaintiff purchased the note for value before maturity without notice. The defendant was authorized to issue notes, but its purchase of stock was *ultra vires*. *Held*, that the plaintiff can recover on the note. *Jefferson Bank of St. Louis* v. *Chapman-White-Lyons Co.*, 123 S. W. 641 (Tenn.).

Corporate notes are void if expressly prohibited. *Root* v. *Wallace*, 4 McLean (U. S.) 8. But otherwise in the United States a corporation has implied power to issue negotiable notes for the purposes of its business. *Curtis* v. *Leavitt*, 15 N. Y. 9. An issue for other purposes is unauthorized. *Tracy* v. *Talmadge*, 14 N. Y. 162. Usually an unauthorized act is not a corporate act unless the entire body of stockholders ratify it in fact or in law. And unless there has been a corporate act the plea of *ultra vires* is undoubtedly valid. *Central & Banking Co.* v. *Smith*, 76 Ala. 572. But when an act's validity depends on facts peculiarly within the knowledge of the corporate officer, the law finds a corporate act without more, and the plea of *ultra vires* is not permissible. *Monument Nat. Bank* v. *Globe Works*, 101 Mass. 57. So a corporation is always liable to the innocent holder of its accommodation paper. *Nat. Bank of the Republic* v. *Young*, 41 N. J. Eq. 531. And a hardware company has been held liable on notes issued for the purchase of jewelry. *Stouffer* v. *Smith-Davis Hardware Co.*, 154 Ala. 301. Nor is it any defense that a note was issued in excess of the statutory debt limit. *Humphrey* v. *Patrons' Mercantile Ass'n*, 50 Ia. 607. But see *Elliott Nat. Bank* v. *Western, etc. R. Co.*, 2 Lea (Tenn.) 676. And it is true as a general rule that unless the other party has knowledge of the facts, a corporation is liable on a contract which is authorized for one purpose but is in fact made for another purpose. See *Colorado Springs Co.* v. *Am. Pub. Co.*, 97 Fed. 843, 849.